

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

TIM LEE NOLAN, by and through)
Lois L. Nolan, and LOIS L. NOLAN,)
)
)
Plaintiffs,)
)
)
vs.) Case No. 05-0781-CV-W-ODS
)
)
FORD MOTOR COMPANY,)
)
)
Defendant.)

ORDER APPROVING SETTLEMENT AND APPORTIONING AND DISTRIBUTING
SETTLEMENT PROCEEDS

A hearing was held on February 7, 2007, to consider the parties' proposed settlement. Testimony was taken and arguments were presented, and the matter was held open so the parties could submit some additional information. Based on the Record, the Court makes the following findings:

1. On July 28, 2005, Tim Lee Nolan ("Decedent") was involved in an automobile accident near Bolivar, Missouri, in which his Ford F250 truck rolled over. Decedent was seriously injured, and his injuries eventually caused his death on November 10, 2005. Decedent was survived by his wife, Lois Nolan, and his two children; Michelle Nolan was born in November 1988 and has therefore reached the age of majority, but his other child (M.N.) was born in December 1991 and therefore has not reached the age of majority.
2. Lois Nolan asserts claims both (1) on her own behalf for loss of consortium and (2) as a claimant under the wrongful death statute. Defendant denies any liability in this matter.
3. Notice of the hearing was provided to all individuals entitled to notice under the wrongful death statute, including particularly Decedent's parents and siblings.
4. In order to resolve the issues between the parties, Defendant has agreed with Plaintiffs, subject to the Court's approval, to settle all claims in this case. The parties' agreement calls for the payment of \$275,000 to settle Ms. Nolan's claim for loss of

consortium and \$275,000 to settle the wrongful death claim. While the total sum (\$550,000) is less than the actual amount of medical bills Decedent incurred between the date of the accident and the date of his death, the Court acknowledges there are significant issues regarding Decedent's fault.

6. The fee agreement between Plaintiffs and Plaintiffs' counsel, which calls for counsel to receive 1/3 of the settlement proceeds, is reasonable.

7. The Court is obliged to apportion the wrongful death settlement between Lois Nolan, Michelle Nolan, and M.N.. Mo. Rev. Stat. § 537.095.3. Evidence presented at trial established Decedent to be an active and important part of his children's lives, and the Court believes it appropriate to apportion some of the settlement to them. In light of all the factors, including the amount of medical bills incurred, the Court apportions the award to provide each child with \$10,000. The remainder of the settlement proceeds (less attorney fees) shall be apportioned to Ms. Nolan.

8. During the hearing, Defendant provided Plaintiffs' counsel with \$550,000, to be paid into counsel's trust account pending this Order

In light of these findings, it is ORDERED that:

- A. The total amount of settlement, \$550,000, is approved.
- B. Defendant is discharged of and from any further liability for the events involving Tim Lee Nolan, including particularly any claims for wrongful death and any claims that may be asserted by Lois L. Nolan or Tim Lee Nolan's estate.
- C. \$10,000 shall be paid to Michelle Nolan, and \$10,000 shall be paid to M.N. (Tim Nolan's minor child).
- D. The attorney fee of 1/3 is approved.
- E. The balance of the settlement proceeds shall be paid to Lois L. Nolan.
- F. Each party shall bear his, her or its own costs.
- G. This case is dismissed with prejudice.

IT IS SO ORDERED.

/s/ Ortrie D. Smith

ORTRIE D. SMITH, JUDGE

UNITED STATES DISTRICT COURT

DATE: March 15, 2007